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**Delta Health Group, Inc. d/b/a Chateau Deville  
Nursing Center and International Brotherhood  
of Electrical Workers Local Union No. 733,  
AFL-CIO. Case 15-CA-14404**

October 9, 1997

**DECISION AND ORDER**

BY CHAIRMAN GOULD AND MEMBERS FOX AND  
HIGGINS

Pursuant to a charge and an amended charge filed on July 15 and 17, 1997, respectively, the General Counsel of the National Labor Relations Board issued a complaint and notice of hearing on July 22, 1997, alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain and to furnish necessary and relevant information following the Union's certification in Case 15-RC-8011. (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint, and asserting affirmative defenses.

On September 8, 1997, the General Counsel filed a Motion for Summary Judgment. On September 10, 1997, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response.

**Ruling on Motion for Summary Judgment**

In its answer and response, the Respondent admits its refusal to bargain and to furnish information that is relevant and necessary to the Union's role as bargaining representative, but attacks the validity of the certification on the basis of its objections to the election in the representation proceeding.<sup>1</sup>

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation pro-

<sup>1</sup> Although the Respondent's answer denied that the information requested is relevant and necessary to the Union's duties as the exclusive bargaining representative of the unit, the Respondent, in an amendment to its answer, admits that the information requested by the Union would be relevant for collective-bargaining purposes had the Union been properly certified.

ceeding. We, therefore, find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941). Accordingly, we grant the Motion for Summary Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At all material times, the Respondent, a Florida corporation, with an office and place of business in Moss Point, Mississippi, has been engaged in the operation of a skilled nursing home.

During the 12-month period ending June 30, 1997, the Respondent, in conducting its operations described above, received gross revenues in excess of \$100,000 and purchased and received at its facility goods and services valued in excess of \$50,000 directly from points outside the State of Mississippi.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and a health care institution within the meaning of Section 2(14) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

**A. The Certification**

Following the election held October 17, 1996, the Union was certified on June 12, 1997, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All certified nursing assistants, dietary aids, cooks, housekeeping aids, laundry aids, restorative aids, medical records clerks, and central supply clerks employed by the Employer at its Moss Point, Mississippi facility; excluding all nurses, floormen, maintenance assistant, activities assistant, social service assistant, receptionist, guards, professional employees and supervisors as defined in the Act.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

**B. Refusal to Bargain**

About June 25, 1997, the Union requested the Respondent to bargain and to furnish necessary and relevant information and, since about July 7, 1997, the Respondent, has failed and refused. We find that this refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

## CONCLUSIONS OF LAW

By refusing on and after July 7, 1997, to recognize and bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit and to furnish the Union requested information, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

## REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union and, if an understanding is reached, to embody the understanding in a signed agreement. We also shall order the Respondent to furnish the Union the information requested.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by the law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), *enfd.* 328 F.2d 600 (5th Cir. 1964), *cert. denied* 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), *enfd.* 350 F.2d 57 (10th Cir. 1965).

## ORDER

The National Labor Relations Board orders that the Respondent, Delta Health Group, Inc. d/b/a Chateau Deville Nursing Center, Moss Point, Mississippi, its officers, agents, successors, and assigns, shall

## 1. Cease and desist from

(a) Refusing to bargain with International Brotherhood of Electrical Workers, Local Union No. 733, AFL-CIO as the exclusive bargaining representative of the employees in the bargaining unit, and refusing to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment, and if an understanding is reached, embody the understanding in a signed agreement:

All certified nursing assistants, dietary aids, cooks, housekeeping aids, laundry aids, restorative

aids, medical records clerks, and central supply clerks employed by the Employer at its Moss Point, Mississippi facility; excluding all nurses, floormen, maintenance assistant, activities assistant, social service assistant, receptionist, guards, professional employees and supervisors as defined in the Act.

(b) Furnish the Union the information that it requested on June 25, 1997.

(c) Within 14 days after service by the Region, post at its facility in Moss Point, Mississippi, copies of the attached notice marked "Appendix."<sup>2</sup> Copies of the notice, on forms provided by the Regional Director for Region 15 after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since July 15, 1997.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. October 9, 1997

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William B. Gould IV, Chairman

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Sarah M. Fox, Member

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John E. Higgins, Jr., Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

<sup>2</sup>If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

## APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with International Brotherhood of Electrical Workers, Local Union No. 733, AFL-CIO as the exclusive representative of the employees in the bargaining unit, and WE WILL NOT refuse to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All certified nursing assistants, dietary aids, cooks, housekeeping aids, laundry aids, restorative aids, medical records clerks, and central supply clerks employed by us at our Moss Point, Mississippi facility; excluding all nurses, floormen, maintenance assistant, activities assistant, social service assistant, receptionist, guards, professional employees and supervisors as defined in the Act.

WE WILL furnish the Union the information it requested on June 25, 1997.

DELTA HEALTH GROUP, INC. D/B/A  
CHATEAU DEVILLE NURSING CENTER



The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION NO. 733, AFL-CIO as the exclusive representative of the employees in the bargaining unit, and WE WILL NOT refuse to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All certified nursing assistants, dietary aids, cooks, housekeeping aids, laundry aids, restorative aids, medical records clerks, and central supply clerks employed by us at our Moss Point, Mississippi facility; excluding all nurses, floormen, maintenance assistant, activities assistant, social service assistant, receptionist, guards, professional employees and supervisors as defined in the Act.

WE WILL furnish the Union the information it requested on June 25, 1997.

DELTA HEALTH GROUP, INC. d/b/a CHATEAU  
DEVILLE NURSING CENTER

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(Employer)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

1515 Poydras Street, Room 610, New Orleans, Louisiana 70112-3723, Telephone 504-589-6389.